

§ 52.89 [Reserved]

§ 52.91 Authorization to conduct limited work authorization activities.

(a) If the application does not reference an early site permit which authorizes the holder to perform the activities under 10 CFR 50.10(d), the applicant may not perform those activities without obtaining the separate authorization required by 10 CFR 50.10(d). Authorization may be granted only after the presiding officer in the proceeding on the application has made the findings and determination required by 10 CFR 50.10(e), and the Director of New Reactors or the Director of Nuclear Reactor Regulation makes the determination required by 10 CFR 50.10(e).

(b) If, after an applicant has performed the activities permitted by paragraph (a) of this section, the application for the combined license is withdrawn or denied, then the applicant shall implement the approved site redress plan.

[72 FR 57447, Oct. 9, 2007]

§ 52.93 Exemptions and variances.

(a) Applicants for a combined license under this subpart, or any amendment to a combined license, may include in the application a request for an exemption from one or more of the Commission's regulations.

(1) If the request is for an exemption from any part of a referenced design certification rule, the Commission may grant the request if it determines that the exemption complies with any exemption provisions of the referenced design certification rule, or with § 52.63 if there are no applicable exemption provisions in the referenced design certification rule.

(2) For all other requests for exemptions, the Commission may grant a request if it determines that the exemption complies with § 52.7.

(b) An applicant for a combined license who has filed an application referencing an early site permit issued under subpart A of this part may include in the application a request for a variance from one or more site characteristics, design parameters, or terms and conditions of the permit, or from the site safety analysis report. In de-

termining whether to grant the variance, the Commission shall apply the same technically relevant criteria as were applicable to the application for the original or renewed site permit. Once a construction permit or combined license referencing an early site permit is issued, variances from the early site permit will not be granted for that construction permit or combined license.

(c) An applicant for a combined license who has filed an application referencing a nuclear power reactor manufactured under a manufacturing license issued under subpart F of this part may include in the application a request for a departure from one or more design characteristics, site parameters, terms and conditions, or approved design of the manufactured reactor. The Commission may grant a request only if it determines that the departure will comply with the requirements of 10 CFR 52.7, and that the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the departure.

(d) Issuance of a variance under paragraph (b) or a departure under paragraph (c) of this section is subject to litigation during the combined license proceeding in the same manner as other issues material to that proceeding.

§ 52.97 Issuance of combined licenses.

(a)(1) After conducting a hearing in accordance with § 52.85 and receiving the report submitted by the ACRS, the Commission may issue a combined license if the Commission finds that:

(i) The applicable standards and requirements of the Act and the Commission's regulations have been met;

(ii) Any required notifications to other agencies or bodies have been duly made;

(iii) There is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of the Act, and the Commission's regulations.

(iv) The applicant is technically and financially qualified to engage in the activities authorized; and

(v) Issuance of the license will not be inimical to the common defense and security or to the health and safety of the public; and

(vi) The findings required by subpart A of part 51 of this chapter have been made.

(2) The Commission may also find, at the time it issues the combined license, that certain acceptance criteria in one or more of the inspections, tests, analyses, and acceptance criteria (ITAAC) in a referenced early site permit or standard design certification have been met. This finding will finally resolve that those acceptance criteria have been met, those acceptance criteria will be deemed to be excluded from the combined license, and findings under § 52.103(g) with respect to those acceptance criteria are unnecessary.

(b) The Commission shall identify within the combined license the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee shall perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of the Act, and the Commission's rules and regulations.

(c) A combined license shall contain the terms and conditions, including technical specifications, as the Commission deems necessary and appropriate.

§ 52.98 Finality of combined licenses; information requests.

(a) After issuance of a combined license, the Commission may not modify, add, or delete any term or condition of the combined license, the design of the facility, the inspections, tests, analyses, and acceptance criteria contained in the license which are not derived from a referenced standard design certification or manufacturing license, except in accordance with the provisions of § 52.103 or § 50.109 of this chapter, as applicable.

(b) If the combined license does not reference a design certification or a reactor manufactured under a subpart F of this part manufacturing license, then a licensee may make changes in

the facility as described in the final safety analysis report (as updated), make changes in the procedures as described in the final safety analysis report (as updated), and conduct tests or experiments not described in the final safety analysis report (as updated) under the applicable change processes in 10 CFR part 50 (e.g., §§ 50.54, 50.59, or 50.90 of this chapter).

(c) If the combined license references a certified design, then—

(1) Changes to or departures from information within the scope of the referenced design certification rule are subject to the applicable change processes in that rule; and

(2) Changes that are not within the scope of the referenced design certification rule are subject to the applicable change processes in 10 CFR part 50, unless they also involve changes to or noncompliance with information within the scope of the referenced design certification rule. In these cases, the applicable provisions of this section and the design certification rule apply.

(d) If the combined license references a reactor manufactured under a subpart F of this part manufacturing license, then—

(1) Changes to or departures from information within the scope of the manufactured reactor's design are subject to the change processes in § 52.171; and

(2) Changes that are not within the scope of the manufactured reactor's design are subject to the applicable change processes in 10 CFR part 50.

(e) The Commission may issue and make immediately effective any amendment to a combined license upon a determination by the Commission that the amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. The amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. The amendment will be processed in accordance with the procedures specified in 10 CFR 50.91.

(f) Any modification to, addition to, or deletion from the terms and conditions of a combined license, including